

REMARKS

Status of the Application

Claims 1-16 are pending. Claims 1-11 have been allowed. Claims 15-16 are objected to. Claims 12-14 have been rejected.

Allowed Claims

Applicant notes with appreciation the Examiner's statement that claims 1-11 are allowable.

Objection(s)

Claims 15-16 have been objected to but would be deemed allowable if rewritten in independent form. In response, applicant has amended base claim 12 as explained below.

Section 102 Rejections

Claim 12 has been rejected under 35 U.S.C. Section 102 as being anticipated by Lary et al. U.S. Patent No. 7,275,273. In response applicant has amended claim 12 to clarify the invention structure and function and, in so doing, distinguish the claimed invention from the Lary disclosure, as will now be explained

Lary et al. is directed to a "bolster," which is basically an inclined back support. The bolster comprises parallel legs and a U-shaped frame 12 that can be set at a desired incline angle by moving sliding pawl 20 among a set of horizontally disposed detents 19 located in ratchet fasteners 17, 21.

Applicants' amended claim 12 is distinguishable from the Lary disclosure in that claim 12 now requires "a backboard rotatably attached to the at least one support arm and capable of extending substantially vertically to the floor to support the exercise bar in a free standing

position.” For example, applicant’s backboard 22 can rotate with respect to the support arms 34 and can be secured to, for example, horizontal bar 18 such that the backboard is substantially vertical, thereby helping to support a downward load impinging on the horizontal exercise bar 16. Support for the additional limitations to claim 12 can be found in the specification as filed at paragraphs 0007 and 0030, as well as Figures 1 and 2.

Lary et al. does not teach or suggest a backboard that is capable of being rotated with respect to the support arms to which it is attached, or a backboard that can be rotated into a substantially vertical orientation. A close examination of Lary indicates that Lary’s backboard 28 cannot rotate with respect to the U-shaped frame 12 to which it is mounted, nor can the backboard be rotated into a vertical position. Instead, the Lary backboard’s motion is limited to that of the U-shaped frame to which it is mounted, which itself is limited to the movement of the pawls 20 within the longitudinal slots 18. (See Lary at column 3, lines 106 and Figure 2) The result is a backboard that cannot be positioned vertically.

That the Lary backboard cannot be positioned vertically is no surprise, since the Lary backboard serves as a back support, and a vertical backboard would be uncomfortable if not useless. Applicant’s backboard has an entirely different function. Rather than support the back of a user, applicant’s backboard supports the support arms 34, which in turn support the horizontal exercise bar 16. Viewed another way, applicant’s backboard 22, support arms 34 and legs 12 form a right triangle, with the backboard 22 as the hypotenuse, which serves to stabilize the free standing exercise device 10. Incidentally, in response to the Examiner’s observation regard the term “free standing”, applicant uses the term to mean that the horizontal exercise device may be used without requiring a wall (see application at paragraphs 0002 and 0003).

For at least these two reasons applicant respectfully submits that claim 12 and its dependent claims are now allowable.

Objected To Claims

Applicants note with appreciation the Examiner's statement that claims 15-16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants submit that the objection to claims 15-16 is moot in view of the foregoing amendment to claim 12.

Summary

It is believed that this paper constitutes a complete response to the Office Action mailed Jan. 7, 2008, and an early and favorable action allowing claims 1-16 is respectfully requested. The Examiner is invited to telephone Applicant's undersigned attorney if any unresolved matters remain.

Respectfully submitted,

/Harold J. Fassnacht/
Harold J. Fassnacht
Reg. No. 35,507

CLAUSEN MILLER, P.C.
10 S. LaSalle Street - Suite 1600
Chicago, Illinois 60603
Telephone: 312-606-7674

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